

## National Science Foundation

## § 689.10

(c) Such interim actions may be taken whenever information developed during an investigation indicates a need to do so. Any interim action will be reviewed periodically during an investigation by NSF and modified as warranted. An interested party may request a review or modification by the Deputy Director of any interim action.

(d) The Deputy Director will make and OIG will retain a record of interim actions taken and the reasons for taking them.

(e) Interim administrative actions are not final agency actions subject to appeal.

[67 FR 11937, Mar. 18, 2002, as amended at 72 FR 4944, Feb. 2, 2007]

### § 689.9 Dispositions.

(a) After receiving a report from an external investigation by an awardee institution or another Federal agency, OIG will assess the accuracy and completeness of the report and whether the investigating entity followed reasonable procedures. It will either recommend adoption of the findings in whole or in part or, normally within 30 days, initiate a new investigation.

(b) When any satisfactory external investigation or an NSF investigation fails to confirm alleged misconduct—

(1) OIG will notify the subject of the investigation and, if appropriate, those who reported the suspected or alleged misconduct. This notification may include the investigation report.

(2) Any interim administrative restrictions that were imposed will be lifted.

(c) When any satisfactory investigation confirms misconduct—(1) In cases in which debarment is considered by OIG to be an appropriate disposition, the case will be referred to the debarring official pursuant to 2 CFR part 180 and the procedures of 2 CFR part 180 will be followed, but:

(i) The debarring official will be either the Deputy Director, or an official designated by the Deputy Director.

(ii) Except in unusual circumstances, the investigation report and recommended disposition will be included among the materials provided to the subject of the investigation as part of the notice of proposed debarment.

(iii) The notice of the debarring official's decision will include instructions on how to pursue an appeal to the Director.

(2) In all other cases—

(i) Except in unusual circumstances, the investigation report will be provided by OIG to the subject of the investigation, who will be invited to submit comments or rebuttal. Comments or rebuttal submitted within the period allowed, normally 30 days, will receive full consideration and may lead to revision of the report or of a recommended disposition.

(ii) Normally within 45 days after completing an NSF investigation or receiving the report from a satisfactory external investigation, OIG will submit to the Deputy Director the investigation report, any comments or rebuttal from the subject of the investigation, and a recommended disposition. The recommended disposition will propose any final actions to be taken by NSF. Section 689.3 lists possible final actions and considerations to be used in determining them.

(iii) The Deputy Director will review the investigation report and OIG's recommended disposition. Before issuing a disposition the Deputy Director may initiate further hearings or investigation. Normally within 120 days after receiving OIG's recommendations or after completion of any further proceedings, the Deputy Director will send the affected individual or institution a written disposition, specifying actions to be taken. The decision will include instructions on how to pursue an appeal to the Director.

[67 FR 11937, Mar. 18, 2002, as amended at 72 FR 4944, Feb. 2, 2007]

### § 689.10 Appeals.

(a) An affected individual or institution may appeal to the Director in writing within 30 days after receiving the Deputy Director's written decision. The Deputy Director's decision becomes a final administrative action if it is not appealed within the 30 day period.

(b) The Director may appoint an uninvolved NSF officer or employee to review an appeal and make recommendations.

(c) The Director will normally inform the appellant of a final decision within 60 days after receiving the appeal. That decision will be the final administrative action of the Foundation

## PART 690—PROTECTION OF HUMAN SUBJECTS

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AUTHORITY: 5 U.S.C. 301; 42 U.S.C. 300v–1(b).

SOURCE: 56 FR 28012, 28022, June 18, 1991, unless otherwise noted.

### § 690.101 To what does this policy apply?

(a) Except as provided in paragraph (b) of this section, this policy applies to all research involving human subjects conducted, supported or otherwise subject to regulation by any federal department or agency which takes appropriate administrative action to make the policy applicable to such research. This includes research conducted by

federal civilian employees or military personnel, except that each department or agency head may adopt such procedural modifications as may be appropriate from an administrative standpoint. It also includes research conducted, supported, or otherwise subject to regulation by the federal government outside the United States.

(1) Research that is conducted or supported by a federal department or agency, whether or not it is regulated as defined in § 690.102(e), must comply with all sections of this policy.

(2) Research that is neither conducted nor supported by a federal department or agency but is subject to regulation as defined in § 690.102(e) must be reviewed and approved, in compliance with § 690.101, § 690.102, and § 690.107 through § 690.117 of this policy, by an institutional review board (IRB) that operates in accordance with the pertinent requirements of this policy.

(b) Unless otherwise required by department or agency heads, research activities in which the only involvement of human subjects will be in one or more of the following categories are exempt from this policy:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (i) research on regular and special education instructional strategies, or (ii) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless:

(i) Information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (ii) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.

(3) Research involving the use of educational tests (cognitive, diagnostic,